



# The Commonwealth of Massachusetts

Executive Office of Health & Human Services

Department of Mental Retardation

500 Harrison Avenue  
Boston, MA 02118

Ronald Preston  
Secretary

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Kerry Healey  
Lieutenant Governor

February 24, 2005

Dear Guardian:

As most of you know, on May 25, 1993, Judge Tauro issued the Final Order in the consolidated cases involving the Department's five state developmental centers, including the Fernald Developmental Center ("Fernald"), ending nearly two decades of court involvement that created a tremendously rich set of supports for individuals and their families with these institutions and with the provision of services to *Ricci* class members in the community. Since the entry of the Final Order in 1993, the Department has recognized its special responsibility to *Ricci/Fernald* class members, and has strived to ensure that their service needs are met, whether in the community or in the Department's Developmental Centers.

In February of 2003, the Administration announced the decision to close Fernald. In the spring of 2004, in accordance with procedure outlined in the Final Order, representatives from the Fernald League, as well as *Ricci* Class Representatives from Belchertown, Monson, Dever and Wrentham Developmental Centers, met with representatives from the Department, including myself, to discuss how the Department would implement the decision. In addition, the Class Representatives raised concerns about how ISPs at Fernald were being developed and written, how discussions of placement were occurring, as well as issues relating to the quality of the services at Fernald. In these discussions, the Department's staff expressed the need to engage families in open and frank discussions about alternative placement opportunities in community-based programs and in other DMR Developmental Centers.

Despite these efforts, the parties – the Department and the Fernald, Monson and Belchertown Class Representatives, could not resolve their disagreements and in July 2004, the representatives from Fernald filed a Motion to Re-open and Restore to Active Docket in the *Ricci v. Okin* case. After several hearings, Judge Tauro, accepted a Stipulation entered into between the parties that addressed the ISP process at Fernald, discussions of alternative placement, and how transfers or placements from Fernald would occur. In other words, the Stipulation addressed the "how" and "when" of individuals service planning and discussions about alternative placement, and the safeguards and protections built into the process to ensure

that you and your family member, as a Ricci class member, will be afforded those protections and rights.

After accepting the Stipulation, and commending the parties for their work in resolving these difficult issues, the Court declined to reopen the case, without prejudice, on January 20, 2005. Although Judge Tauro announced his decision to deny the Fernald class representatives' motion to reopen the *Ricci* law suit he made clear his position that "the care and concern for those who are being treated at Fernald is the highest priority for this Court." Judge Tauro indicated in his remarks that his interest in what is happening at Fernald will continue, but that his decision affirms the Department's leadership, responsibility, and accountability for doing the work of supporting individuals at Fernald.

## I. Service Enhancement at Fernald

In the aftermath of this decision, and as we move forward with closure activities at Fernald, the Department is committed to maintaining the highest standards of excellence in all aspects of service delivery to the residents of Fernald. Service enhancement is underway in several areas at Fernald, of which you may already be aware.

In the summer and fall of 2004, additional staff was hired to improve the physical features of the facility, and painting and needed renovations are either completed or underway. Cottage 11 (corrected from original letter) was refurbished and individuals from Cottages 5 and 6 moved into Cottage 11 (corrected from original letter) where the physical environment is much improved.

In January of 2005, I asked Linda Montminy to join the Fernald staff as Facility Director, bringing her 28 years of experience and commitment to quality within DMR facilities. She immediately met with staff and with family representatives, and has implemented regular meetings with the Building Representatives, and is available to meet with you at your earliest convenience to discuss any concerns you may have about current care or future plans.

What is most important is that we maintain excellent care, staffing and supports for your loved one every day while they live at Fernald Developmental Center, and we will meet this standard.

## II. New Procedures Regarding ISPs and Alternative Placement Discussions

An important part of the parties' Stipulation was an understanding as to how the Department would proceed with individual service planning and discussions of placement opportunities for individuals at Fernald. In the Stipulation, the Department agreed that it would not discuss alternative placements at the individual's annual ISP meeting; rather it would conduct separate meetings to address alternative placement. Since December 16, 2004, ISP meetings at Fernald have not included discussion of alternative placement. Annual ISPs are and will be focused entirely on the individual's needs and services to address those needs. During this time, no individual's services should be reduced unless there is team decision that the services are not appropriate.

Under the Stipulation, if a family member or guardian wishes to explore placement opportunities with the staff at Fernald, the individual will be referred to the individual transition planning team, or ITP Team. Once that occurs, discussions about placement can occur freely. Once a specific site or new setting is selected by the family or guardian, and all assurances are met that the services provided in the new setting are equal or better to current services, and that the individual's ISP determined needs will be met in the new location, an ISP modification meeting is held. In fact, some family members and/or guardians have opted to move ahead with planning for an alternative placement, and over 45 individuals have chosen this option.

Under the Stipulation, the Department also agreed to discuss with Class Representatives and Class Counsel "processes to facilitate exchanges of information and discussions with individuals, families and guardians about alternative placement options. . ." In this vein, the Department has discussed with Class Counsel and the Class Representatives its plan to conduct a series of informal meetings or "teas" with staff and families to facilitate such exchanges. You will be receiving notices of these open, informal meeting or discussions, and we urge you to attend to be fully informed about placement options either at other facilities, state-operated programs or provider-operated residential programs in the community.

Under the Court's directive, if the Department wishes to move forward with placement planning discussions, and the family member or guardian has not initiated placement discussions, the Department's staff may convene such meetings to begin the planning process, provided that appropriate notice is given to Class Counsel should the family or guardian choose to be represented. These are the main components of the parties' Stipulation in this matter. If you would like a copy of the stipulation, please feel free to contact Linda Montminy.

As we proceed with the plan to close Fernald, our activities will continue to be driven by individual needs and a strong commitment to provide our best services to everyone. The placement processes that are being used at Fernald are similar to the efforts our staff have made in the closures of Belchertown State School or the Dever Developmental Center and are designed to ensure that every person moves to a home that meets his or her needs as well as the "equal or better" standard. The processes are very thorough and comprehensive, and they place a strong focus on the involvement of those who know the individual the best: the ISP team, direct care staff, families and guardians. Placement processes also ensure that facility staff remains focused on their on-going responsibilities of providing active treatment and that the transition is guided by the ITP Team. Members of the ITP Team act as "quarterbacks," using the information they are given by ISP teams, direct care staff, families, and guardians to help them locate the right home to meet each person's needs which must meet the standard of equal or better and be affirmed by Linda Montminy prior to any transfer.

Families and guardians are involved in decision making and planning for individuals' transitions to their new homes. It is this involvement that helps to ensure that all-important details are considered and planned for, and it is this involvement that makes the transition and placement experiences successful. The involvement of families and guardians is especially important, and the Department will continue to seek your involvement in planning for your family member or ward so that your voice will be heard at each step of the process.

During the closure period we will listen attentively to your views. In addition we must be attentive to the men and women who live at Fernald as well as the dedicated staff who serve them. The work we do in the Department of Mental Retardation is about the individuals we serve. We will keep our focus on this important mission. While these men and women continue to live at Fernald, and during their transition and placement, and for the rest of their lives beyond that placement, the Department will maintain its strong commitment to ensure that their services are excellent and their needs are met consistent with their ISP's and in full compliance of the final Court Order of 1993.

Thank you for your continued support and understanding during this period of change, and know that we as a staff have the privilege to serve your family member or ward to meet their needs with dignity and excellent care.

Respectfully,

*Gerald J. Morrissey, Jr.*

Gerald J. Morrissey, Jr.  
Commissioner